

BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation against:)	
)	
DAVID SEAGAL)	Case No. 827-A
1634 Kent Place)	
Thousand Oaks, CA 91362)	
)	
Civil Engineer License No. C 14972,)	
)	
Respondent.)	
_____)	

DECISION

The attached Stipulation for Public Reprimand against David Seagal is hereby adopted by the Board for Professional Engineers and Land Surveyors as its Decision in the above-entitled matter.

This Decision shall become effective on June 10, 2010.

IT IS SO ORDERED May 5, 2010.

Original Signed

BOARD FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-2558
6 Facsimile: (213) 897-2804
Attorneys for Complainant

8 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 827-A

12 **DAVID SEAGAL**
1634 Kent Place
13 Thousand Oaks, CA 91362
14 **Civil Engineer License No. C 14972**

**STIPULATION FOR PUBLIC
REPRIMAND AGAINST DAVID
SEAGAL**

15 Respondent.

16 In the interests of a prompt and speedy settlement of this matter, consistent with the
17 public interest and the responsibility of the Board For Professional Engineers and Land
18 Surveyors, Department of Consumer Affairs (Board), the parties agree to the following stipulated
19 settlement which will be submitted to the Board for its approval and adoption as the final
20 disposition of the Accusation in this matter.

21 **PARTIES**

22 1. David E. Brown, (Complainant) is the Executive Officer of the Board for Professional
23 Engineers and Land Surveyors, Department of Consumer Affairs. Complainant brings this action
24 solely in his official capacity and is represented in this matter by Edmund Brown Jr., Attorney
25 General of the State of California, by Kevin J. Rigley, Deputy Attorney General.

26 2. On or about August 31, 1964, the Board for Professional Engineers and Land
27 Surveyors (Board) issued Civil Engineer License Number C 14972 to David Seagal
28 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the

1 charges brought in Accusation No. 827-A herein and will expire on March 31, 2011, unless
2 renewed.

3 JURISDICTION

4 3. Accusation No. 827-A was filed before the Board for Professional Engineers and
5 Land Surveyors, Department of Consumer Affairs, and is currently pending against Respondent.
6 The Accusation and all other statutorily required documents were properly served on Respondent
7 on July 30, 2009. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of Accusation No. 827-A is attached as Exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 4. Respondent has carefully read and discussed with his counsel the nature of the
11 charges and allegations in the Accusation and the effects of this stipulated settlement and order.

12 5. Respondent is fully aware of his legal rights in this matter, including the right to a
13 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
14 his own expense; the right to confront and cross-examine the witnesses against him; the right to
15 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
16 the attendance of witnesses and the production of documents; the right to reconsideration and
17 court review of an adverse decision; and all other rights accorded by the California
18 Administrative Procedure Act and other applicable laws.

19 6. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
20 every right set forth above.

21 CULPABILITY

22 7. For purposes of the settlement of the action pending against Respondent in Case
23 No. 827-A and to avoid a costly administrative hearing, Respondent agrees that, at a hearing,
24 Complainant could establish a factual basis for the imposition of discipline under Business and
25 Professions Code sections 6775(c) and 6775(h) [for violating sections 6735 and 6749], and
26 Respondent hereby gives up his right to contest those charges and agrees to be bound by the
27 Board's imposition of discipline as set forth in the disciplinary order below.
28

1 8. Respondent stipulates that the Board has jurisdiction to impose a public reprimand
2 upon his Civil Engineer License No. C 14972, pursuant to sections 6775(c) and 6775(h) of the
3 Business and Professions Code.

4 RESERVATION

5 9. The settlement made by Respondent is only for the purposes of these proceedings,
6 or any other proceedings in which the Board for Professional Engineers and Land Surveyors or
7 other professional licensing agency is involved, and shall not be admissible in any other criminal
8 or civil proceedings.

9 CONTINGENCY

10 10. This stipulation shall be subject to approval by the Board. Respondent understands
11 and agrees that the Board's staff and counsel for Complainant may communicate directly with the
12 Board regarding this stipulation, without notice to or participation by Respondent or his counsel.
13 If the Board fails to adopt this stipulation as its Order, the Stipulated Settlement, except for this
14 paragraph, shall have no force or effect. The Stipulated Settlement shall be inadmissible in any
15 legal action between the parties and the Board shall not be disqualified from further action by
16 having considered this matter.

17 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
18 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
19 effect as the originals.

20 12. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board shall, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order.

23 DISCIPLINARY ORDER

24 13. IT IS HEREBY AGREED AND ORDERED that the Board shall, without formal
25 notice or formal proceeding, issue and enter a disciplinary order as follows: A Public Reprimand
26 shall be issued to Respondent David Seagal, Civil Engineer License No. C 14972. IT IS
27 FURTHER ORDERED that Respondent shall complete the following requirement:

28 ///

A. Within one year from the effective date of the decision, Respondent shall successfully complete and pass a course in professional ethics, approved in advance by the Board or its designee. Respondent shall provide the Board with verifiable proof of his successful completion of the requisite course.

14. Respondent specifically acknowledges and understands that the Order for Public Reprimand as a resolution to the charges in the Accusation is contingent upon his full compliance with this condition. If Respondent fails to satisfy this condition, he understands and agrees that the Board may then file a supplemental accusation for unprofessional conduct as a consequence of such failure on his part, as a separate and independent basis for disciplinary action pursuant to Business and Professions Code section 6775.

15. In the event that Respondent fails to satisfy the above condition, Respondent understands and agrees that the original Accusation shall be reinstated and Respondent agrees to waive any defenses based upon the statute of limitations as to the original Accusation. Respondent further understands and agrees that the Board will be entitled to proceed on both the original Accusation and a supplemental accusation based on his failure to comply with the above condition.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and understand the effect this stipulation will have on my Civil Engineer License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly and intelligently, and agree to be bound by the Decision and Order of the Board for Professional Engineers and Land Surveyors. I further agree that a facsimile copy of this Stipulated Settlement, including facsimile copies of signatures, shall have the same force and effect as the original.

DATED:

Original Signed
DAVID SEAGAL
Respondent

///

1 ENDORSEMENT

2 The foregoing Stipulation for Public Reprimand is hereby respectfully submitted
3 consideration by the Board for Professional Engineers and Land Surveyors of the Department of
4 Consumer Affairs.

5
6 DATED: 3/11/10

7 EDMUND BROWN JR., Attorney General
8 of the State of California

9 Original Signed
10 KEVIN J. RIGLEY
11 Deputy Attorney General
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Attorneys for Complainant

LA2008601607

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-2558
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 827-A

12 **DAVID SEAGAL**
13 **1634 Kent Place**
Thousand Oaks, CA 91362
14 **Civil Engineer License No. C 14972**

A C C U S A T I O N

15 Respondent.

16 **PARTIES**

17 1. David E. Brown (Complainant) brings this Accusation solely in his official capacity
18 as the Executive Officer of the Board for Professional Engineers and Land Surveyors,
19 Department of Consumer Affairs.

20 2. On or about August 31, 1964, the Board for Professional Engineers and Land
21 Surveyors (Board) issued Civil Engineer License Number C 14972 to David Seagal
22 (Respondent). The Civil Engineer License was in full force and effect at all times relevant to the
23 charges brought herein and will expire on March 31, 2011, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code unless otherwise indicated.

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4
5

6
7
8

9

10
11
12
13
14

15

16

17

18

19
20

21

22

23

24
25
26
27

28

FIRST CAUSE FOR DISCIPLINE

(Negligence)

9. Respondent is subject to disciplinary action under section 6775, subdivision (c), for committing acts that constituted negligence in the practice of professional engineering. In or about March 2001, Ronald R. and Sharon R. (the homeowners) hired Respondent to provide structural analysis of a two-story addition to an existing two-story single-family home (the structural analysis project). In performing his duties, Respondent committed numerous specific acts that constituted negligence because they fell below the standard of practice that would be exercised by the reasonably prudent professional engineer, including:

- (a) The foundation included the use of caissons,¹. The caisson detail was not properly assigned a detail designation, and was not referenced on the foundation plan.
- (b) The foundation plans did not properly detail the connection between the existing foundation and the new foundation.
- (c) The foundation plan did not clearly note the location of the slab foundation or how the slab ties into the footings and grade beams.
- (d) The foundation plan did not show the location, extent, or detailing of shear wall anchor bolts and shear wall holdown anchor bolts.
- (e) Structural elevations were shown with conflicting information on shear wall locations and extents that do not reflect the slab foundation.
- (f) The structural framing plans did not specify the lumber grades to be provided.
- (g) The structural framing plans did not correctly specify wood structural panel shear walls. The plans lacked wood structural panel specification, nail sizes and spacing, and anchor bolt space.
- (h) The structural framing plans did not call out any floor joists, deck joists, roof rafters, headers, or ridge beam.

¹ A caisson is a watertight chamber used as a foundation.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Include a Preliminary Notation on Incomplete Plans)**

3 10. Respondent is subject to disciplinary action under section 6775, subdivision (h)
4 [violating provisions of the Business and Professions Code], for violating section 6735 [requiring
5 preliminary plans to include a notation to that effect]. When Respondent submitted his structural
6 analysis project plans to the homeowners in or about November 2001, he failed to include the
7 required notation that the plans were preliminary or for building department review.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Failure to Execute a Written Contract)**

10 11. Respondent is subject to disciplinary action under section 6775, subdivision (h)
11 [violating provisions of the Business and Professions Code], for violating section 6749 [written
12 contract required when providing professional engineering services]. Respondent never executed
13 a written contract with the homeowners for the professional engineering services he provided to
14 them during the period of time from in or about March 2001 until in or about December 2001.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the issue a decision:

- 18 1. Revoking or suspending Civil Engineer License Number C 14972, issued to
19 Respondent;
20 2. Ordering Respondent David Seagal to pay the Board the reasonable costs of the
21 investigation and enforcement of this case, pursuant to section 125.3; and
22 3. Taking such other and further action as deemed necessary and proper.

23
24
25 DATED: July 20, 2009

Original Signed

DAVID E. BROWN

Executive Officer

Board for Professional Engineers and Land Surveyors

Department of Consumer Affairs

State of California

Complainant